



WAVERLEY
COUNCIL

PLANNING PROPOSAL

Residential dwelling density in the R3 & R4 zones

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Planning Proposal Information

Council versions:

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1	9 November 2023	Sent to Waverley Local Planning Panel
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EXECUTIVE SUMMARY

This Planning Proposal prepared by Waverley Council seeks to amend the *Waverley Local Environmental Plan 2012* by strengthening the existing objective ‘to increase or preserve residential dwelling density’ through and including a new local provision to preserve the existing residential dwelling density in order to prevent the further substantial loss of dwellings/units within the Waverley LGA.

‘Residential dwelling density’ refers to the number of residential dwellings across one site. It does not relate to the gross floor area (GFA) of buildings containing dwellings, bedroom numbers or the number of occupants that any dwelling is capable of containing.

The objective currently in the R3 and R4 zones – ‘to increase or preserve residential dwelling density’ – seeks to help tackle the problematic trend of RFB’s being converted to luxury dual occupancies and single dwellings in areas that are suitable for greater densities. Any DA that results in a loss of dwelling numbers in the R3 and R4 zones would be inconsistent with this objective and in large, the Waverley Local Housing Strategy and housing targets.

The intended outcomes of the Planning Proposal are as follows:

- Introduce a new local provision (cl 6.17) to prevent the reduction of dwelling numbers in R3 and R4 zones by any more 15% of all existing dwellings on site, rounded up to the nearest whole dwelling.
- Amend objective in R3 and R4 zones to read ‘To increase or preserve residential dwelling density across the site’.
- Keep dwelling houses and attached dwellings as permissible uses.

The Planning Proposal is considered a ‘Complex’ Planning Proposal, in line with the LEP Making Guidelines criteria.

INTRODUCTION

An emerging development trend in the Waverley LGA sees existing medium to high density residential buildings being replaced with large single detached dwellings, large luxury apartments or dual occupancies. This poses an issue for the area due to the loss of often affordable Inter War housing, but also a loss of housing availability generally. In some cases, such as the replacement of two dwelling houses with one dwelling house, or replacement of a RFB with one dwelling house, this trend has the potential to change the character of a streetscape. This trend also challenges the Council’s strategic planning of providing density in the right places, given that the limited R3 and R4 zones should be doing the heavy lifting for Council to increase its dwelling numbers.

AFFECTED LAND

The affected land includes all R3 and R4 zones across the Waverley LGA. This affects approximately 4813 lots within the R3 zone and approximately 99 lots within the R4 zone.

Refer to the Appendix of this report for detailed mapping of the R3 and R4 areas.

BACKGROUND TO THIS PLANNING PROPOSAL

Waverley is one of the most dense LGA's in Sydney at 79 people/Ha, with apartments reflecting 66% of housing stock in Waverley. The *Waverley Local Housing Strategy* was adopted in 2020 which outlined specific housing targets over the next 10 to 20 years. The targets have since been increased by the NSW State Government, now requiring 2,400 new homes to be completed by 2029.

There is limited available land in the LGA for residential uses that is not already built upon and there are no significant urban renewal opportunities being led by Council or State Government. Therefore, housing growth will come through as infill development, i.e. in the form of modifications or the demolition and reconstruction of existing buildings.

The ability for development in Waverley to align with these targets is threatened by an increasing trend in Waverley where Development Applications are being lodged which seek to convert RFBs and other forms of high density residential building types into dwelling houses or fewer, larger apartments. The net loss of units through these developments has been eroding Waverley's higher density built form on sites in the R3 and R4 zones.

Woollahra Municipal Council and City of Sydney Council have reported a similar trend.

As a result of this trend, the WLEP was amended on the 30 September 2022 to mitigate the loss of density in order to facilitate housing targets, the below objective was added to the R3 and R4 zones:

- *To increase or preserve residential dwelling density.*

However, there are concerns that it may be too difficult to refuse consent on the sole basis of inconsistency with the objective above, especially if this basis were to be challenged in an appeal to the Land and Environmental Court. Therefore, it has been identified that changes to the WLEP are required to strengthen the consent authority's decision to maintain residential dwelling density within the R3 and R4 zones.

HISTORY AND CURRENT PLANNING CONTROLS

Amendment 24 to the WLEP 2012 was finalised on 30 September 2022, which included the addition of the following objective into the R3 and R4 zones:

- *To increase or preserve residential dwelling density.*

This objective aims to stop new developments from reducing the net number of residential dwellings/units across a site.

Prior to 30 September 2022 there were no controls or objectives that related to dwelling density in the LEP or DCP.

CONTEXT

As identified in the Our Liveable Places Centres Strategy, Waverley is a very walkable LGA, with 90% of residents being within a 20min walk to a local centre with essential goods and services. Whilst this local walkability score is excellent, access to Bondi Junction or the CBD via public transport can be over 30 mins and 60 min respectively from approximately 60% of the LGA.

There is a rising trend in the Waverley LGA where residential flat buildings and shop top housing in the R3 and R4 zones are being demolished or heavily altered, and replaced with dwelling houses, dual occupancies for RFBs with significantly fewer units than the existing structures, resulting in a net loss of dwellings in generally well connected and serviced areas which can handle existing and future growing capacity under the current development standards.

The erosion of density in the R3 and R4 zones is problematic as it is these zones are identified to increase density, as supported by the community and Council endorsed LEP. If these areas continue to lose density, new locations for density would have to be identified in order to meet the LGA's housing targets, which is often challenging, particularly when the density is already so ideally located.

This Planning Proposal is needed to protect existing dwelling density by strengthening the existing dwelling density objective in the R3 and R4 zones, prohibiting residential dwellings in these zones and introducing an additional local provision to complement the dwelling density zone objective.

'Residential dwelling density' refers to the number of residential dwellings across one site. It does not relate to the gross floor area (GFA) of buildings containing dwellings, bedroom numbers or the number of occupants that any dwelling is capable of containing.

PART 1 – OBJECTIVES AND INTENDED OUTCOMES

1.1 Description Statement

The objective of the planning proposal is to amend the Waverley Local Environmental Plan (WLEP) 2012 to strengthen the existing dwelling density objective in the R3 and R4 zones, and introduce an additional provision to prevent a substantial reduction in the number of residential dwellings on a particular site.

1.2 Intended Outcomes

The intended outcomes of the proposed amendments to the WLEP are to ensure that Council does not grant consent to any development that significantly reduces the net amount of residential dwellings across medium and high density residential zones. The outcome is to maintain residential dwelling density within these denser zones, that are located in well serviced areas with public transport and access to social infrastructure, essential services, community and cultural services and open space and recreation.

This Planning Proposal does not intend to prevent a change of use to:

- Non-residential permissible uses in the R3 and R4 zones;
- Types of residential accommodation which are inherently more affordable than traditional self-contained residential flat building units – being boarding houses or co-living housing; or
- Types of residential accommodation which meets the specific needs of seniors, people who may be socially disadvantaged or people with a disability - being group homes and residential care facilities.

The proposed amendment is consistent with Council's resolution of the *Waverley Local Housing Strategy*. This strategy supports retaining existing development capacity.

PART 2 – EXPLANATION OF PROVISIONS

2.1 Intended Provisions

This Planning Proposal seeks to amend the Waverley Local Environmental Plan 2012 as follows:

Table 1 – Proposed changes to WLEP 2012

Section of the WLEP 2012	Existing	Proposed
Land Use Table – R3 Medium Density Residential Zone	Objective: To increase or preserve residential dwelling density.	Update objective: To increase or preserve residential dwelling density across the site.
Land Use Table – R4 High Density Residential Zone	Objective: To increase or preserve residential dwelling density.	Update objective: To increase or preserve residential dwelling density across the site.
Clause 6.17 Residential Dwelling Density in R3 and R4 zones	No existing clause.	Introduce a new local provision (cl 6.17) to prevent the reduction of dwelling numbers in R3 and R4 zones by any more 15% of all existing dwellings on site, rounded up to the nearest whole dwelling.

Note: The specific wording of clause 6.17 is subject to drafting by NSW Parliamentary Counsel. The below is an example for discussion purposes.

6.17 Residential Dwelling Density in Zone R3 and R4 zones.

(1) The objectives of this clause are as follows—

(a) To ensure that the carrying out of development on any site within the R3 and R4 zones should not result in a reduction in the number of dwellings that existed on the site as of [date of Planning Proposal Gazettal].

(b) To ensure that the number of dwellings on any site are maintained or increased to meet the demand of the area's existing and projected population;

- (c) To maintain or increase residential dwelling density within the R3 and R4 zones, which are well serviced areas with public transport and access to social infrastructure, essential services, community and cultural services, and open space and recreation;*
- (2) This clause applies to land in Zone R3 Medium Density Residential and R4 High Density Residential.*
- (3) This clause applies to development for the purposes of residential accommodation, except for boarding houses, co-living housing, group homes, and residential care facilities.*
- (4) Development consent must not be granted or a development consent must not be modified for development to which this clause applies unless the consent authority is satisfied that the residential dwelling density of the development site is not being reduced by more than 15% (rounded up to the closest whole dwelling number) compared to the constructed residential dwelling density on the site on <insert date LEP is made>.*
- (5) In this clause 'residential dwelling density' refers to the number of residential dwellings across one site and does not relate to the gross floor area (GFA) of buildings containing dwellings, bedroom numbers or the number of occupants that any dwelling is capable of containing.*

No savings or transitional arrangement for applications lodged prior to the provision coming into effect is proposed. The R3 and R4 zones already have a dwelling density objective which has been in effect since 30 September 2022, meaning that there are no DA's currently under assessment on R3 or R4-zoned sites that are not already aware of the strategic intent for that site.

A loss of one dwelling within a wider development of any scale is considered to provide flexibility in the rare circumstance that someone owns two directly adjoining units and wishes to combine them (rather than sell both and purchase one larger unit nearby) whilst preventing a noticeable reduction of dwelling density in well serviced areas. When reviewing recent Development Applications seeking to reduce dwelling density it was found that the loss of 1 unit in apartment developments approximately equated to 15% of the total number of units in the existing building – hence the decision to permit a reduction of the greater of 15% of dwelling density or 1 whole unit. For example, many Inter-War style apartment blocks affected by the dwelling density reduction trend contain between 6 to 8 units. The reduction of one unit in a 6-unit building represents 15% of existing units.

A mix of dwelling sizes for a range of households can still be achieved with this provision as recent Development Applications lodged with Council have demonstrated a market trend of new apartment development in the R3 and R4 zones including many three and four-bedroom oversized units, which complement the existing studio, one and two-bedroom units in the LGA. Further, the proposed provision does not prevent unit sizes (floor space or bedroom numbers) within a building from changing. Lastly, there are many residential flat buildings and manor houses constructed in the R2 Low Density Residential zone and in shop top housing developments in business zones which will not be subject to this proposed provision –

permitting freedom for consolidation of any extent. As such, the LGA as a whole can easily achieve a successful and diverse mix of dwelling sizes regardless of the proposed provision.

2.2 Worked Examples

To calculate the maximum number of units that can be reduced by a DA under proposed subclause (4) the number of dwellings on site at the date of provision gazettal is multiplied by 15%, and then rounded up.

The following worked examples show how the provision described in this Planning Proposal would apply to different scenarios and development types.

Table 2 - Worked examples of applying the proposed dwelling density provision

Scenario	Comment
Example 1: Alterations and additions to, or the knock-down and rebuild of an existing residential flat building in an R3 or R4 zone with 10 existing units as of provision gazettal date.	15% of 10 units is 1.5 units, equating to 2 units when rounded up. As such, the proposal may reduce the building to 8 units whilst still complying with the proposed provision.
Example 2: Alterations and additions to, or the knock-down and rebuild of an existing residential flat building in an R3 or R4 zone with 5 existing units as of provision gazettal date.	15% of 5 units is 0.75 units, equating to 1 unit when rounded up. As such, the proposal may reduce the building to 4 units whilst still complying with the proposed provision.
Example 3: Alterations and additions to, or the knock-down and rebuild of an existing residential flat building in a zone other than R3 or R4.	The proposed provision will not apply to this development as the site is not located in a zone listed in subclause (2) of the proposed clause.
Example 4: Demolition of an existing residential flat building, and replacement with a non-residential building.	The proposed provision will not apply to this development as the new building is not a development type listed in subclause (3) of the proposed clause.
Example 5: Alterations and additions to, or the knock-down and rebuild of an existing residential flat building in an R3 or R4 zone which was originally constructed after the date of provision gazettal, and had a non-residential building on the land at the date of provision gazettal.	Because there were no residential dwellings on site at the date of provision gazettal, there are no restrictions on the reduction of dwelling density.
Example 6: Conversion of an existing non-residential building to a residential flat building in an R3 or R4 zone, which had a residential use at the date of provision gazettal.	The proposed provision will apply, and require the new RFB to have no more than 15% dwelling reduction compared to the RFB which was on site at the date of provision gazettal.
Example 8: Demolition of an existing residential flat building in an R3 and R4 zone	The proposed provision will not apply to this development as there is no new building

with 10 existing units as of provision gazettal date, resulting in an empty lot.	that contains a development type listed in subclause (3) of the proposed clause.
Example 9: Construction of a new residential flat building on the land subject to 'example 8' above.	<p>The proposed provision will apply as the new building is a development type listed in subclause (3) of the proposed clause, and there were residential dwellings on site at the date of provision gazettal.</p> <p>15% of 10 units is 1.5 units, equating to 2 units when rounded up. As such, the proposed new apartment block on the empty land will need to contain at least 8 units to comply with the proposed provision.</p>
Example 8: Alterations and additions to, or the knock-down and rebuild of a mixed use building in an R3 or R4 zone with 10 existing residential units as of provision gazettal date.	<p>15% of 10 units is 1.5 units, equating to 2 units when rounded up. As such, the proposal may reduce the building to 8 residential units whilst still complying with the proposed provision.</p> <p>Whether commercial floorspace or tenancy numbers is increased or decreased compared to the existing mixed use building is of no relevance to the proposed provision.</p> <p>The location on site, bedroom numbers and floor space of the residential units under the proposal is of no relevance to the proposed provision.</p>

PART 3 – JUSTIFICATION OF STRATEGIC AND SITE-SPECIFIC MERIT

3.1 STRATEGIC MERIT

This section details the reasons for the proposed LEP amendment and is based on a series of questions and matters for consideration as outlined in the LEP Making Guidelines (December 2021). The issues to be addressed include the strategic planning context of the amendments, Strategic Merit, Site-Specific Merit, potential State and Commonwealth agency interests, and environmental, social and economic impacts.

This objective seeks to prevent the problematic trend of RFB's being converted to luxury dual occupancies and single dwellings in areas that are suitable for greater densities. Any development application that results in a loss of dwelling numbers in R3 and R4 zone is inconsistent with this objective and in large, the Waverley Local Housing Strategy (2020 – 2036) and housing targets.

Section A – Need for the planning proposal (Strategic Merit)

This section establishes the need for a planning proposal in achieving the key outcomes and objectives. The set questions address the strategic origins of the proposal and whether amending the WLEP is the best mechanism to achieve the aims of the proposal.

1. Is the planning proposal a result of any strategic study or report?

This Planning Proposal is a result of recent research into the matter, prompted by an influx of Development Applications seeking development consent for a substantial reduction.

A desktop assessment of all the development applications and modifications to reduce dwelling density was studied from 1 January 2017 to 22 November 2022. During this time 92 constructed dwellings were submitted for removal, with dozens more reduced from approved buildings. The largest losses came from the proposed demolition of existing boarding house development, and sought to replace with new RFB or seniors housing, as is the case with approved DA-94/2021 for Philip Nursing Home (67 to 45 dwellings, loss of 22). Another larger loss came from the demolition of an existing RFB complex with 22 dwellings, and the replacement with multi-dwelling housing of 9 dwellings (loss of 13).

The most common loss was the slow erosion of density within areas of the LGA which have historically provided good density in ideal locations, however, now offer an enticing development opportunity where larger dwellings (detached dwellings or large apartments) attract a higher premium compared to older apartments. There were 11 applications proposing to convert or alter existing apartment buildings or large dual occupancies into single dwellings (26 to 13, loss of 13). There were 10 applications amalgamating two or three, one/two bedroom units to create a larger unit or penthouse apartment with three or more bedrooms.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The Planning Proposal is the only means of achieving an appropriate measure to preserve and/or increase residential dwelling density within the R3 and R4 zones. The R3 and R4 zone objective alone was the first step in trying to mitigate this problem and the following paragraph explains why alone the objective is not robust enough.

The starting point for a consent authority during Development Assessment is clause 2.3(2). Before the consent authority can grant consent, they must have to “have regard” to the zone objectives, however, consistency with the objective is not explicitly required. Therefore, an additional local provision is required for all DA’s, complying or breaching a development standard, to assess their proposal against dwelling density provision and to allow the consent authority to grant consent accordingly.

The 15% rate of maximum dwelling reduction most appropriately achieves the proposal objectives as it prevents a significant reduction of dwelling density in well serviced areas whilst still providing flexibility for rare instances where someone wishes to amalgamate a small proportion of the overall building for amenity reasons.

Section B – Relationship to strategic planning framework3. Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any exhibited draft plans or strategies)?

The proposal is consistent with the objectives of a Metropolis of Three Cities and the Eastern City District Plan as it aims to assist in the preservation and increase of residential dwelling.

Table 3 – Metropolis of three cities consideration

Liveability – Housing the city	
Objective 10: Greater Housing supply	The proposal is consistent with objective 10 as it will retain affordable and modest housing types. This Planning Proposal will encourage housing supply and will aim to meet the Waverley housing targets. This plan recognises that not all areas of Greater Sydney are appropriate for significant additional development and Waverley is one of them so it is particularly important to preserve the existing residential density within the areas zoned for medium and higher densities.
Objective 11: Housing is more diverse and affordable	<p>The proposal is consistent with objective 11 as the changes to the LEP help preserve and increase housing affordability by preventing modestly sized units (which are inherently more affordable) from being replaced with fewer luxury ones.</p> <p>Factors that contribute to rental and purchasing affordability challenges include the limited availability of smaller dwellings to meet the growing proportion of small household. Waverley LGA is subject to new developments which seek to reduce density of existing medium to high density residential buildings, in order to provide large mansions or luxury apartments to the market. This poses an issue for the area due to the loss of often affordable Inter War housing, but also a loss of housing availability generally.</p>

Table 4 –Eastern City District Plan consideration

Direction: Liveability	
Planning Priority E5: Providing housing supply, choice and affordability, with access to jobs, services and public transport.	The proposal will prevent the reduction of housing in areas that have the best access to jobs, services and transport.

Table 5 – Assessment of Proposal against Strategic Merit Test

Strategic Merit Test	
a) Does the proposal:	
Give effect to the relevant regional plan outside of the Greater Sydney Region, the relevant district plan within the Greater	Yes, it is consistent with the Greater Sydney Regional Plan and Eastern City

Sydney Region, and/or a corridor/precinct plan applying to the site. This includes any draft regional, district or corridor/precinct plans released for public comment or a place strategy for a strategic precinct including any draft place strategy; or	District Plan as per tables 3 and 4 of this report.
Demonstrate consistency with the relevant LSPS or strategy that has been endorsed by the Department or required as part of a regional or district plan; or	<p>The Planning Proposal is consistent with the Waverley Local Strategic Planning Statement:</p> <p>Planning Priority 6: Facilitate a range of housing opportunities in the right places to support and retain a diverse community.</p> <p>Response: The proposal will prevent the reduction of housing in areas that have the best access to jobs, services and transport.</p>
Respond to a change in circumstances that have not been recognised by the existing planning framework.	N/A

4. Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategy or strategic plan?

Waverley Local Environmental Plan 2012

The Waverley LEP has 13 aims that all Planning Proposals and development should be consistent with where applicable. This Planning Proposal is consistent with the following aims of the Waverley LEP:

(c) To provide for a range of residential densities and a range of housing types to meet the changing housing needs of the community.

(ca) To encourage the development of a variety of housing on land close to public transport, essential goods and services and open space.

The planning proposal meets both objectives through directly targeting the loss of residential flat buildings and the rise of less dense developments such as detached houses and dual occupancies within the R3 and R4 zones. The Waverley LGA is highly accessible with public transport and the R3 and R4 zones have been positioned to be within a short walk to bus stops and the Bondi Junction train station.

Waverley Local Strategic Planning Statement (March 2020)

Refer to Table 5 for the consideration of applicable LSPS priorities and actions.

Waverley Local Housing Strategy and Housing Targets

The *Waverley Local Housing Strategy* (LHS) identifies a housing target of 3,461 new dwellings by 2036.

It has been concluded in the LHS that Waverley LGA has exceeded its 0–5-year housing target, and is on track to meet or exceed the 6-10 and 11-20 year ones.

Since the LHS was published, housing targets have been increased by the NSW State Government, now requiring 2,400 new homes to be completed by 2029.

Despite Waverley LGA being on track with LHS housing targets, there is a risk it could slow down due to Bondi Junction reaching its capacity of feasible and profitable sites left for redevelop. There are limited opportunities for comparable redevelopment throughout the rest of the LGA. Future housing should be located close to transport and access to social infrastructure and essential services, community and cultural services and open space and recreation. Generally, all parts of Waverley have good access to these amenities, making it suitable for housing in the context of Greater Sydney.

The recently growing trend in Waverley of new developments reducing residential dwelling density across the R3 and R4 zones is concerning as this is a backwards step towards the projected housing targets. The additional local provision is a housing strategy that aims to protect Council's housing targets and density growth within the high density residential zones.

The following table details how the proposal is consistent with the LHS priorities:

Table 6 – Waverley Local Housing Strategy consideration

Waverley Local Housing Strategy		
Priority H1:	Manage housing growth sustainably and in the right location	Waverley has recently experienced significant levels of housing growth, driven by redevelopment of the Bondi Junction strategic centre. There are limited opportunities for comparable redevelopment throughout the rest of the LGA. Surrounding areas zoned for higher densities and located near public transport must therefore sustain and increase housing.
Priority H2:	encourage a range of housing options to support and retain a diverse community	The Planning Proposal is consistent with the Priority H2 as changes to the R3 and R4 zones does not limit the range of housing options but preserves the housing options in Waverley LGA.

Waverley Community Strategic Plan 2022-2032

This Planning Proposal aligns with the community vision which states:

“Waverley is a vibrant and resilient community. We take care of each other, our natural environment and local places. Our community is empowered to collaborate for sustainable and connected Waverley for future generations.”

The Planning Proposal also aligns with the directions presented in the table below:

Table 7 – Assessment of Proposal against Waverley Community Strategic Plan 2022-2032

Relevant Directions and Strategies from the Waverley Strategic Plan	Is the proposal consistent with Direction and Strategy?
1.7: Actively drive housing policy to meet the needs of the vulnerable, diverse and growing population.	
1.7.2. Advocate for increased diversity of housing stock that is affordable and accessible.	The planning proposal aims to preserve the existing dense residential flat buildings to prevent them from being developed into luxury single dwellings. The R3 and R4 zones are especially connected and are well serviced areas including public transport and access to social infrastructure and essential services, community and cultural services and open space and recreation. These areas can handle existing and future growing capacity under the current development standards. This additional provision is expected to assist with preventing this loss of dwellings in the zones.
1.7.4. Manage housing supply, choice and affordability with access to jobs, services and public transport.	
2.6: Control and manage development to protect the intrinsic values of the community including aesthetics, size, heritage, and population	
2.6.2. Ensure new development provides a high standard of design quality and does not adversely impact the amenity of neighbours or the wider community	This proposal aims to maintain and increase the population within the medium and higher residential density zones. This will allow a diverse and affordable housing stock to remain as apartments are significantly cheaper than houses or units with oversized floorplates.

5. Is the planning proposal consistent with any other applicable State and regional studies or strategies?

There are no other relevant State or regional studies or strategies.

6. Is the planning proposal consistent with applicable SEPPs?

This Planning Proposal is consistent with applicable State Environmental Planning Policies. Assessed the Planning Proposal against the State Environmental Planning Policies SEPPs:

Table 8 – Assessment of Proposal against the SEPPs

Title	Applicable	Consistent
Housing SEPP	Yes	The planning proposal is consistent with the following development controls for affordable housing for residential flat buildings, boarding houses, secondary dwellings, group house, built-to-rent housing and seniors living.
Design Quality of Residential Apartment Development – SEPP 65	Yes	The planning proposal is consistent with SEPP 65 and the ADG as residential flat buildings are permissible within the zones. Development applications to renovate older RFBs have to meet these controls with the exception of maintaining the building envelope.
Exempt and Complying Development Codes SEPP	Yes	Exempt and Complying development to apartments in these zones are not changed.
Transport and Infrastructure SEPP	N/A	
Primary Production SEPP	N/A	
Biodiversity and Conservation SEPP	N/A	
Resilience and Hazards SEPP	N/A	
Industry and Employment SEPP	N/A	
Resources and Energy SEPP	N/A	
Planning Systems SEPP	N/A	
Sustainable Buildings SEPP	N/A	
Precincts SEPPs: Eastern Harbour City SEPP, Western Parkland City SEPP, Central River City SEPP and Regional SEPP	N/A	

7. Is the planning proposal consistent with applicable Ministerial Directions (section 9.1 Directions)?

The proposal is consistent with applicable Ministerial Directions under Section 9.1 of the Environmental Planning and Assessment Act 1979 as outlined in the below table.

Table 9 – Assessment of Proposal against Ministerial Direction

Section 9.1 Ministerial Direction		
Ministerial Direction	Relevance	Consistency
6.1 Residential Zones	<p>The directions are:</p> <p>A Planning Proposal must include provisions that encourage the provision of housing that will:</p> <ul style="list-style-type: none"> • Broaden the choice of building types and locations available in the housing market, • Make more efficient use of existing infrastructure and services, and • Reduce the consumption of land for housing and associated urban development on the urban fringe and • Be of good design. 	<p>The proposal is consistent with the objectives of this direction as the current choice of building types will be preserved through stopping RFBs from being turned into luxury dwellings. Preventing this rising trend will continue to broaden the choice of dwelling types within areas capable of servicing denser housings areas. It will provide variety and choice in housing types.</p>

3.2 SITE SPECIFIC MERIT

The Planning Proposal meets the Site-specific Merit Test, the assessment is presented in this table.

Table 10 – Assessment of Proposal against Site Specific Merit Test

Site-Specific Merit Test	
b) Does the proposal have site-specific merit, having regard to the following:	
The natural environment (including known significant environmental values, resources or hazards); and	This Proposal will not have any impacts on the natural environment.
The existing uses, approved uses, and likely future uses of land in the vicinity of the proposal; and	This Proposal will not inhibit development within Waverley. The Proposal will ensure that density across the R3 and R4 zones is maintained, and will allow reasonable development that supports higher residential densities in accessible areas. The development standards remain unchanged and development potential remains the same.

The services and infrastructure that are or will be available to meet the demands arising from the proposal; and	Not applicable as this Proposal will not result in the increase of infrastructure demand.
Any proposed financial arrangements for infrastructure provision.	Not applicable as this Proposal will not result in the increase of infrastructure demand.

Section C – Environmental, social and economic impact

8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected because of the proposal?

This Planning Proposal does not propose any physical development changes and therefore will not have any adverse impacts on threatened species, populations or ecological communities.

9. Are there any other likely environmental effects of the planning proposal and how are they proposed to be managed?

There are unlikely to be any other environmental effects as a result of the Planning Proposal.

10. Has the planning proposal adequately addressed any social and economic effects?

The current trend of developments seeking a loss in density of existing medium to high density residential buildings, has a direct effect on the existing supply and affordability of housing. This is problematic as the R3 and R4 zones are the places that have an agreed density to them, as supported by the community and the Council endorsed LEP. If these areas continue to lose density, new locations for density would have to be identified to meet the LGA's housing targets, which is often challenging. The social effects the planning proposal targets is maintaining higher populations close to infrastructure, public transport, access to jobs, community facilities and the environment.

The planning proposal mechanisms aims to ensure appropriate densities are maintained and consistent with the area's existing or projected population.

Section D – Infrastructure (Local, State and Commonwealth)

11. Is there adequate public infrastructure for the planning proposal?

This consideration is not applicable to the Planning Proposal.

Section E – State and Commonwealth Interests

12. What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway determination?

Initial feedback from the Department of Planning and Environment (DPE) Places and Infrastructure Team received via email on 5 June 2023 encouraged further considerations of the following items:

- ***There are a range of uses permissible under the R3 and R4 zones, what is Council's position for redeveloping / changing an existing residential use to another use which does not provide housing, e.g. changing the use of or redeveloping a dwelling house to provide a centre-based child care centre?***

Response: A change of use from residential to non-residential is still permissible with consent as the proposed new clause will only apply to Development Applications relating to certain residential accommodation and will have to consider preserving or increasing density from the date of gazettal.

- ***Following from the above, what would be Council's position on development for more affordable forms of housing (e.g. co-living) and residential care facility, in which the accommodation is not in the form of self-contained dwellings?***

Response: The proposed new clause will not apply to boarding houses, co-living housing, group homes, and residential care facilities.

- ***How would such a prohibition under the LEP relate to the Codes SEPP regarding dual occupancy development utilising the CDC pathway?***

Response: Under this proposal dual occupancies and dwelling houses remain permissible.

PART 4 – MAPPING

No changes are proposed to mapping.

PART 5 – COMMUNITY CONSULTATION

Public exhibition is likely to include at minimum a display on the Council's website. The gateway determination will specify the level of public consultation that must be undertaken in relation to the planning proposal.

Pursuant to Division 3.4 of the Act, this Planning Proposal will be exhibited for 30 working days as specified in the gateway determination for the proposal. The Responsible Planning Authority must consider any submissions made concerning the proposed instrument and the report of any public hearing.

PART 6 – PROJECT TIMELINE

The following indicative project timeline will assist with tracking the progress of the planning proposal through its various stages of consultation and approval. It is estimated that this amendment to WLEP will be completed by late 2024.

The detail around the project timeline is expected to be prepared following the referral to DPE for a Gateway Determination.

Table 11 – Indicative project timeline

Tasks	Timeframe and/or date
Consideration by Council	March 2024
Council decision	March 2024
Gateway Determination	April 2024
Pre-exhibition	May 2024
Commencement and completion of public exhibition period	June – July 2024
Consideration of submissions	August 2024
Post-exhibition review and additional studies	August 2024
Submission to the Department for finalisation (where applicable)	September 2024
Gazettal of LEP amendment	October 2024

APPENDIX A – LAND ZONE MAP

The R3 and R4 zones are shown as the **medium red** and **dark red** shades as follows on figure 1. Figures 2 to 6 show the zones in greater detail, with street names visible.

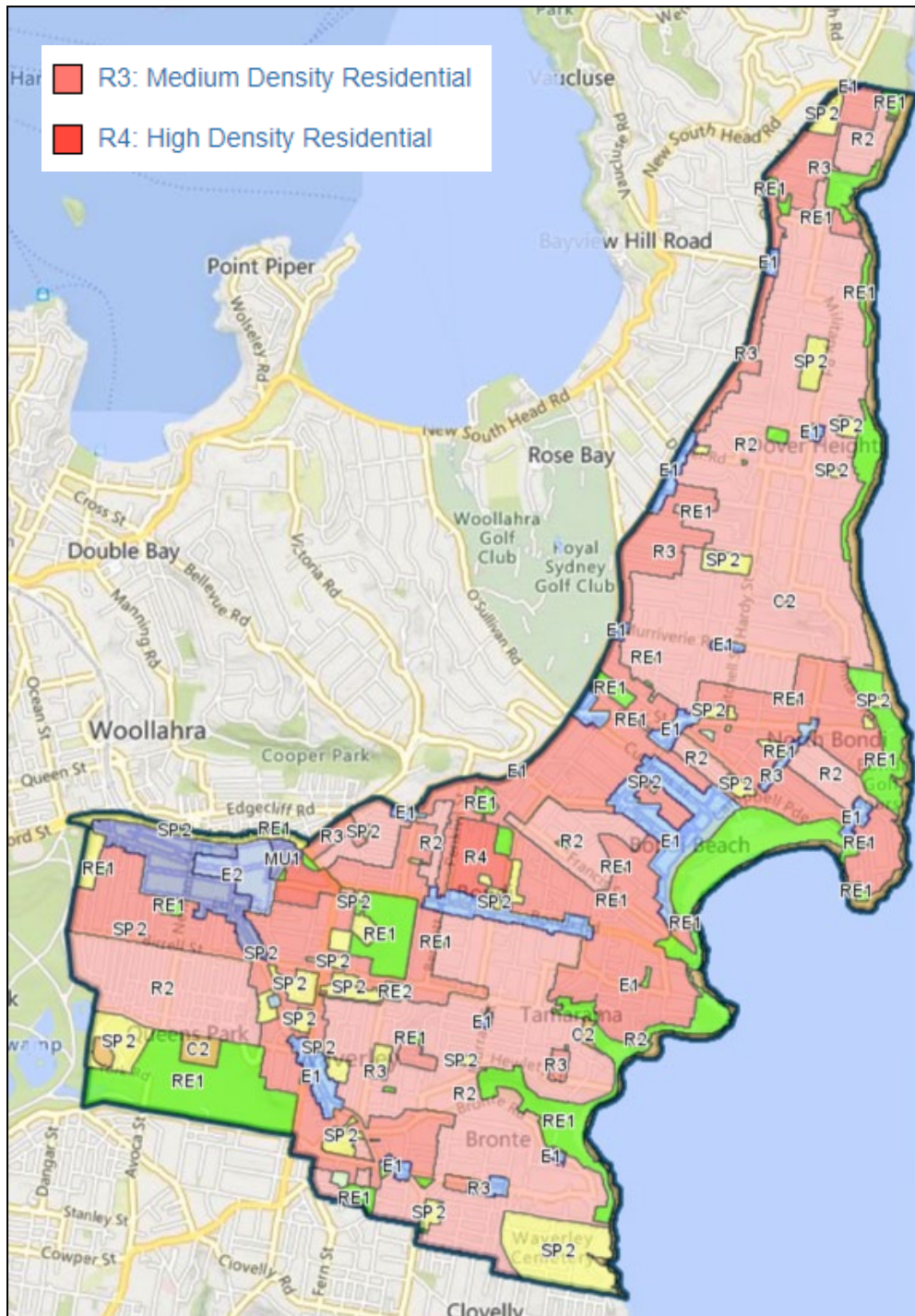


Figure 1. Waverley Zone Map.

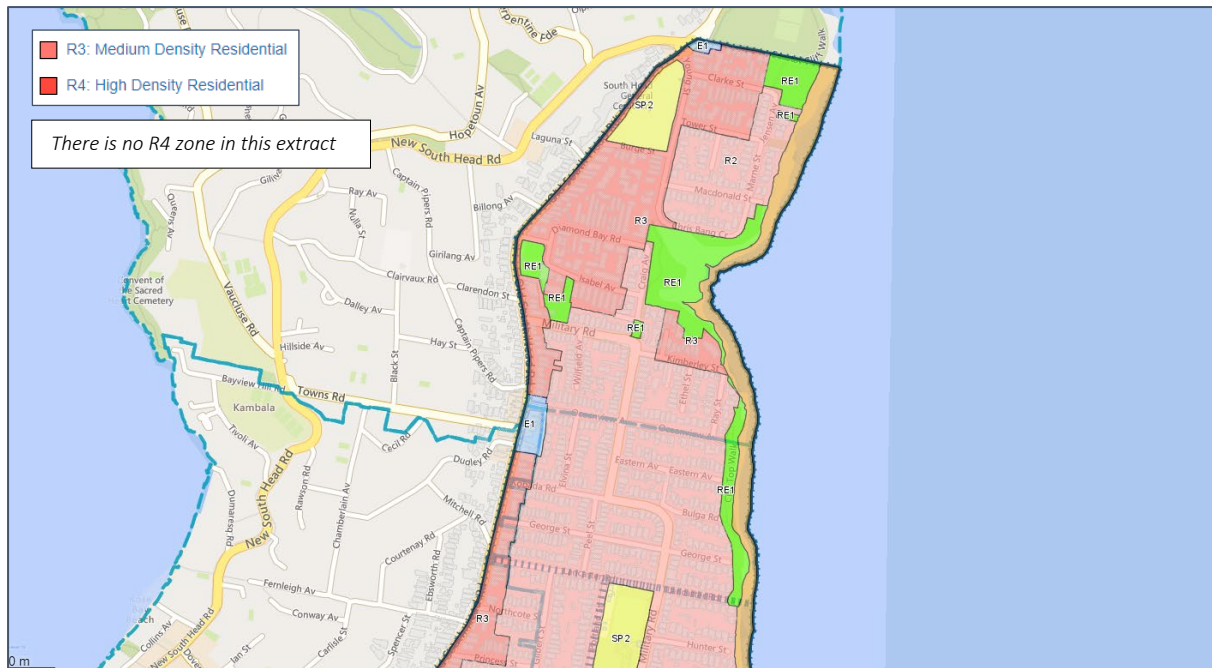


Figure 2. Extract from Waverley Zone Map – Vacluse and Dover Heights

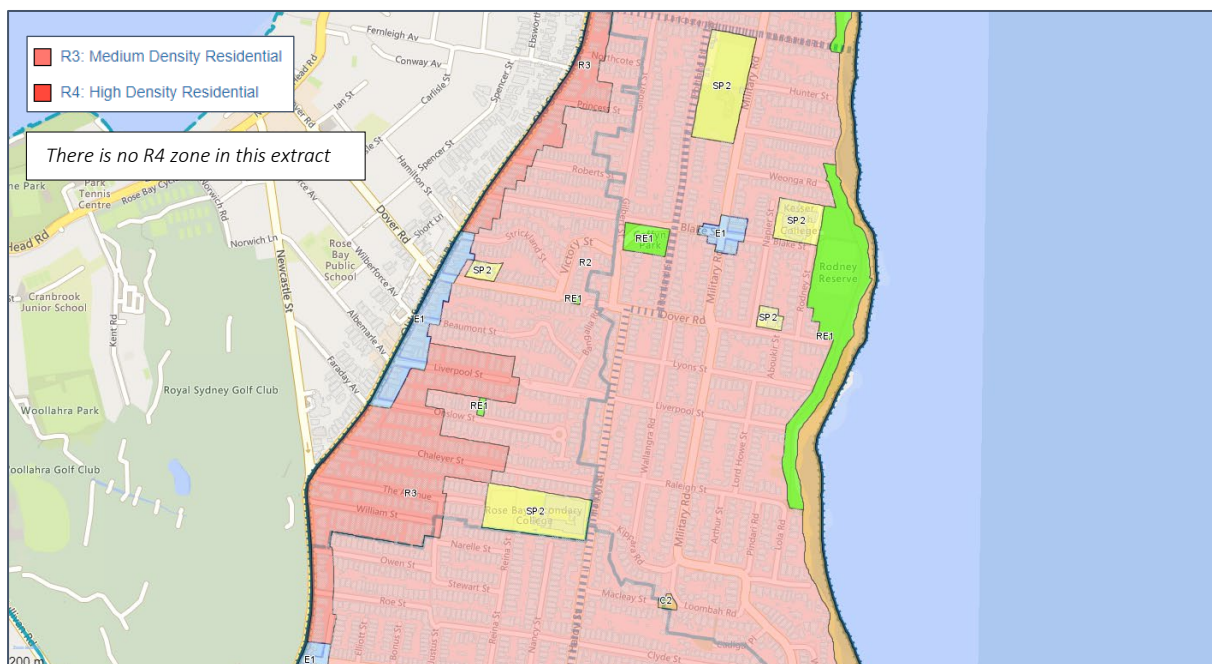


Figure 3. Extract from Waverley Zone Map – Rose Bay, Vacluse and Dover Heights

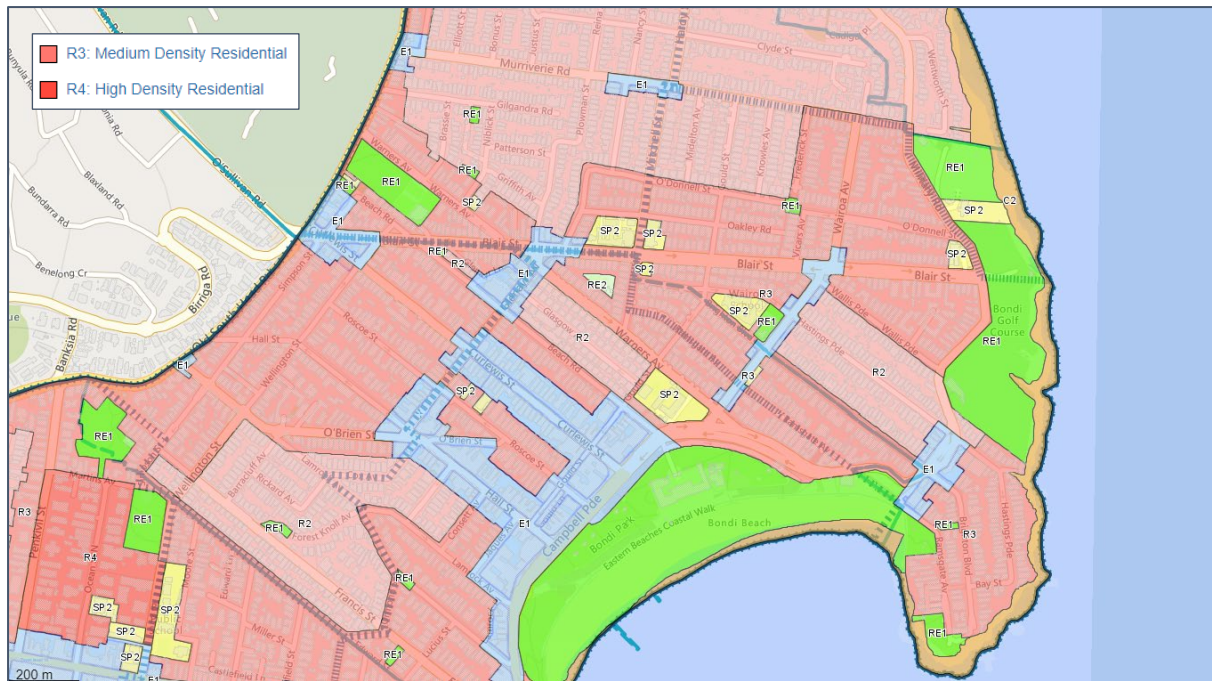


Figure 4. Extract from Waverley Zone Map – Rose Bay, North Bondi, Bondi Beach and Bondi

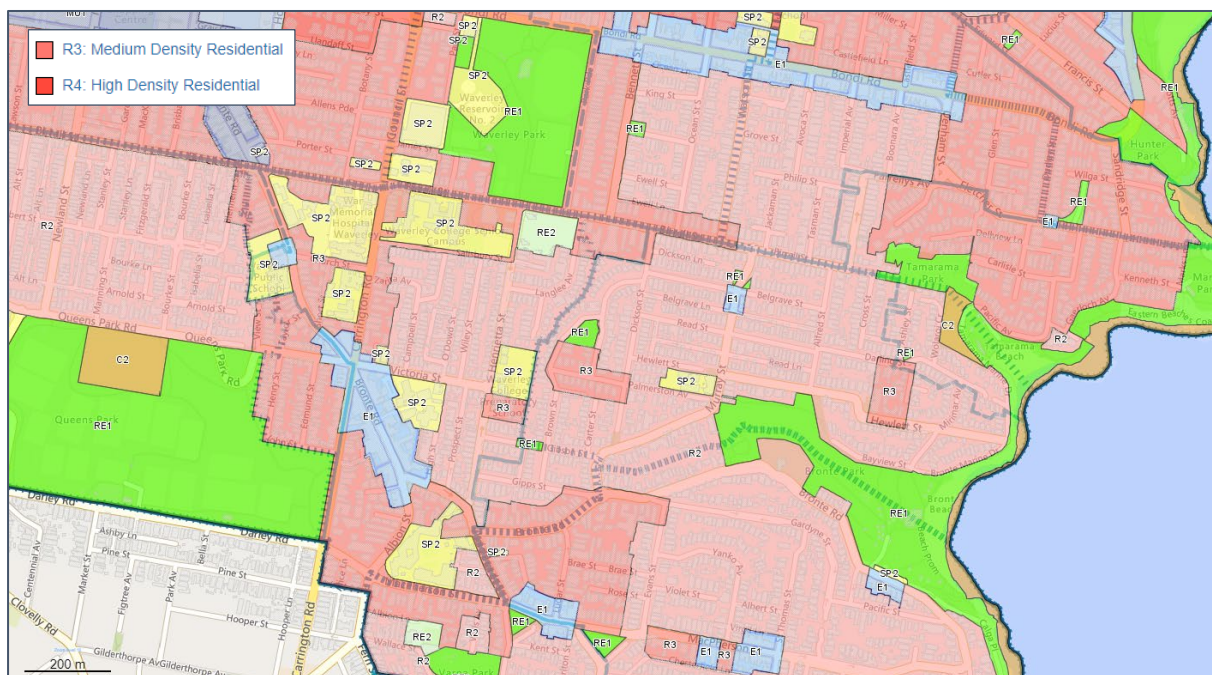


Figure 5. Extract from Waverley Zone Map – Bondi Beach, Tamarama, Bronte and Bondi

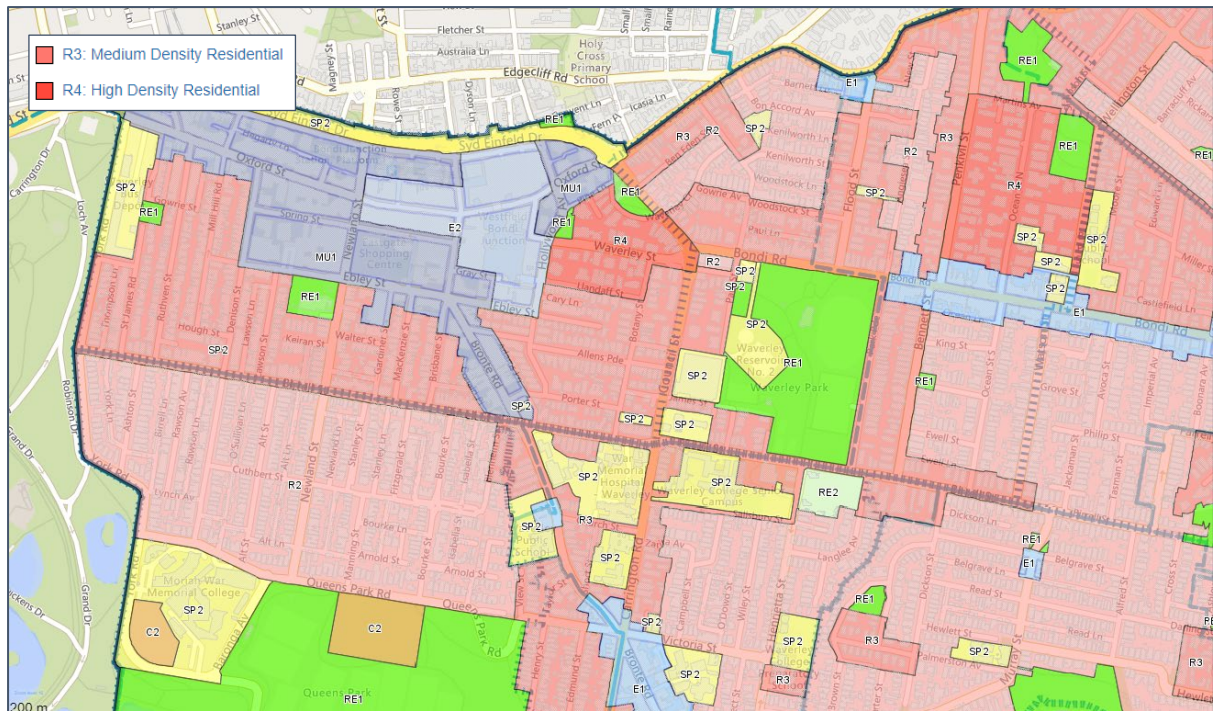


Figure 6. Extract from Waverley Zone Map – Queens Park, Bondi Junction, Bondi and Bronte